

When determining whether a piece of equipment qualifies for the manufacturing machinery and equipment exemption, the requirements of 86 Ill. Adm. Code 130.330 must be met. (This is a GIL).

June 15, 2000

Dear Xxxxx:

This letter is in response to your letter dated April 4, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

COMPANY is a leading supplier of starches and sweeteners derived from the corn refining process. Our corporate office and one of our manufacturing facilities are located in CITY, IL. The IL Department of Commerce and Community Affairs ("DCCA") has issued a certification stating that we are located in the NAME Enterprise Zone and are exempt from IL Retailers' Occupation Tax ("ROT") on purchases of tangible personal property used or consumed in the manufacturing or assembly process or in the operation of pollution control facilities. A copy of the DCCA certification is attached for your records.

We are writing on behalf of BUSINESS, a mechanical insulation contractor, which we engaged to install thermal insulation, on both a time and material and lump sum contract basis, around the piping and equipment that comprise the manufacturing machinery and equipment ("MM&E") at our CITY corn refining facility. The insulation is generally considered a permanent part of the MM&E unless the insulation itself is inadvertently damaged and needs to be replaced or the MM&E to which the insulation is affixed is overhauled or replaced.

BUSINESS purchased the insulation from a vendor located in CITY, IL, which is not located within the NAME Enterprise Zone. We believe the insulation is an integral part of the MM&E and that its purchase should be exempt from IL ROT under the MM&E exemption provision (35 ILCS 120/1f). The vendor's position is that the insulation is a building material and that COMPANY's DCCA certification does not apply to these materials. The vendor has since charged and collected from BUSINESS ROT on the sale of the insulation to BUSINESS.

Under the IL ROT Act, the MM&E exemption is available for machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The insulation should be considered equipment as it is an essential

June 15, 2000

component to an integrated manufacturing process and not a building or consumable material. The insulation is essential in maintaining certain temperature requirements during the manufacturing process.

Upon review of the above information, we hereby request that the IL Department of Revenue issue a ruling indicating that the purchase of insulation under the facts and circumstances as described above is exempt from IL ROT.

Enclosed is a copy of 86 Ill. Adm. Code 130.330 concerning the Manufacturing Machinery and Equipment Exemption. In general, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily (over 50%) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease.

When determining whether a piece of equipment qualifies for the manufacturing machinery and equipment exemption, the requirements of 86 Ill. Adm. Code 130.330 must be met. "Manufacturing", as defined in this regulation, is the production of articles of tangible personal property, whether such articles are finished products or articles for use in the process of manufacturing or assembling different articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant, Section 130.330(b)(2).

Replacement parts can qualify for the exemption. See Section 130.330(c)(2). If the insulation is used as an integral part of qualifying manufacturing machinery and equipment, it can qualify for the exemption. If it is used as a part of the general heating or cooling systems in the plant, then it will not qualify.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.